



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2014 REGULAR SESSION

SENATE BILL NO. 98

AS ENACTED

MONDAY, MARCH 31, 2014

RECEIVED AND FILED

DATE April 10, 2014

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ALISON FUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

1 AN ACT relating to adult abuse, neglect, and exploitation.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Employee" means a person who:

- 7 1. Is hired directly or through a contract by a vulnerable adult services
8 provider who has duties that involve or may involve one-on-one
9 contact with a patient, resident, or client; or
- 10 2. Is a volunteer who has duties that are equivalent to the duties of an
11 employee providing direct services and the duties involve, or may
12 involve, one-on-one contact with a patient, resident, or client;

13 (b) "Validated substantiated finding of adult abuse, neglect, or exploitation"
14 means that the cabinet has:

- 15 1. Entered a final order concluding by a preponderance of the evidence
16 that an individual has committed adult abuse, neglect, or exploitation
17 against a different adult for whom the individual was providing care
18 or services as an employee or otherwise with the expectation of
19 compensation;
- 20 2. The individual has been afforded an opportunity for an administrative
21 hearing under procedures compliant with KRS Chapter 13B, and an
22 appeal to the Circuit Court of the county where the abuse, neglect, or
23 exploitation is alleged to have occurred or, if the individual consents,
24 to the Franklin Circuit Court; and
- 25 3. That any appeal, including the time allowed for filing an appeal, has
26 concluded or expired; and

27 (c) "Vulnerable adult service provider" means:

- 1 1. Adult day health care program centers as defined in KRS 216B.0441;
- 2 2. Adult day training facilities;
- 3 3. Assisted-living communities as defined in KRS 194A.700;
- 4 4. Boarding homes as defined in KRS 216B.300;
- 5 5. Group homes for individuals with an intellectual disability and
- 6 developmentally disabled (ID/DD);
- 7 6. Home health agencies as defined in KRS 216.935;
- 8 7. Hospice programs or residential hospice facilities licensed under KRS
- 9 Chapter 216B;
- 10 8. Long-term-care hospitals as defined in 42 U.S.C. sec.
- 11 1395ww(d)(1)(B)(iv);
- 12 9. Long-term-care facilities as defined in KRS 216.510;
- 13 10. Personal services agencies as defined in KRS 216.710;
- 14 11. Providers of home and community-based services authorized under
- 15 KRS Chapter 205, including home and community based waiver
- 16 services and supports for community living services; and
- 17 12. State-owned and operated psychiatric hospitals.
- 18 (2) A vulnerable adult services provider shall query the cabinet as to whether a
- 19 validated substantiated finding of adult abuse, neglect, or exploitation has been
- 20 entered against an individual who is a bona fide prospective employee of the
- 21 provider. The provider may periodically submit similar queries as to its current
- 22 employees and volunteers. The cabinet shall reply to either type of query only that
- 23 it has or has not entered such a finding against the named individual.
- 24 (3) An individual may query the cabinet as to whether the cabinet's records indicate
- 25 that a validated substantiated finding of adult abuse, neglect, or exploitation has
- 26 been entered against him or her. The cabinet shall reply only that it has or has
- 27 not entered such a finding against the named individual, although this limitation

1 shall not be construed to prevent the individual who is the subject of the
2 investigation from obtaining cabinet records under other law, including the
3 Kentucky Open Records Act. An individual making a query under this subsection
4 may direct that the results of the query be provided to an alternative recipient
5 seeking to utilize the care or services of the querying individual.

6 (4) Every cabinet investigation of adult abuse, neglect, or exploitation committed by
7 an employee or a person otherwise acting with the expectation of compensation
8 shall be conducted in a manner affording the individual being investigated the
9 level of due process required to qualify any substantiated finding as a validated
10 substantiated finding of adult abuse, neglect, or exploitation.

11 (5) The cabinet shall promulgate administrative regulations to implement the
12 provisions of this section. Included in these administrative regulations shall be:

13 (a) An error resolution process allowing an individual whose name is
14 erroneously reported to have been the subject of a validated substantiated
15 finding of adult abuse, neglect, or exploitation to request the correction of
16 the cabinet's records; and

17 (b) A designation of the process by which queries may be submitted in
18 accordance with this section, which shall require that the queries be made
19 using a secure methodology and only by providers and persons authorized
20 to submit a query under this section.

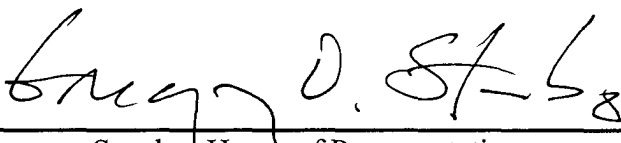
21 (6) If the cabinet does not respond to a query under subsection (2) of this section
22 within twenty-four (24) hours and a vulnerable adult services provider hires or
23 utilizes an employee provisionally, the provider shall not be subject to liability
24 solely on the basis of hiring or utilizing the employee before having received the
25 cabinet's response.

26 (7) This section shall only apply to instances of abuse, neglect, or exploitation
27 substantiated on or after the effective date of this Act, which shall be compiled

1 into a central registry for the purpose of queries submitted under this section.



President of Senate



Speaker House of Representatives

Attest: 

Chief Clerk of Senate

Approved 

Governor

Date 